



DEPARTMENT OF THE NAVY  
BOARD FOR CORRECTION OF NAVAL RECORDS  
2 NAVY ANNEX  
WASHINGTON DC 20370-5100

JRE  
Docket No: 4464-01  
26 February 2002



Dear [REDACTED]

This is in reference to your application for correction of your son's naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 14 February 2002. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your son's naval record and applicable statutes, regulations and policies.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found that you son enlisted in the Navy on 24 March 1997. It appears that his enlistment was fraudulent, in that he concealed a history of arrests for theft, assault on a police officer, escape from custody, criminal mischief, resisting arrest, failure to appear, and underage possession of an alcoholic beverage. The fraud was discovered shortly after he enlisted, but naval authorities opted to allow him to remain in the Navy, based on his good conduct and performance prior to the time that determination was made. He was discharged by reason of misconduct-commission of a serious offense on 6 March 1998. The discharge was based on his attempting to provoke a confrontation with his supervisor, repeatedly striking the supervisor with his fists, and attacking the supervisor again after being pulled off of him. In addition, his commanding officer noted that he had an attitude problem and a poor work effort.

In the absence of evidence which demonstrates that your son was not responsible for the acts which resulted in his discharge, or establishes that his discharge was erroneous or unjust, the Board was unable to recommend any corrective action. It could not find any indication in

the available records that he was unfit for duty by reason of physical disability at that time. The Board noted that as a discharge by reason of misconduct takes precedence over disability processing, he would not have been entitled to separation or retirement by reason of physical disability even if he had been unfit for duty.

In view of the foregoing, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER  
Executive Director